

### **REMARKS**

Claims 1-9 are pending. Claim 1 is an independent claim.

Claims 1-4 and 6-8 were rejected.

Claim 5 was objected to.

### **Drawings**

In Section 2 of the Office Action, the Examiner noted that the reference character 35 has been used to designate both a positioning projection in page 7 of the specification and a positioning hole in page 9 of the specification. The specification has been amended as set forth above to correct a typographical error in the specification.

Accordingly, there is no need to amend the drawings.

The Examiner is requested to reconsider and withdraw the objection to the drawings.

### **Claim Rejections**

#### **First Rejection**

Claims 5-8 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is traversed.

It is noted that on the Form PTOL-326, claim 5 was not indicated as being rejected. It is understood that this was a typographical error on the part of the Patent Office.

Claim 5 has been amended and does now comply with 35 U.S.C. § 112, second paragraph. Claims 6-8 do not depend on claim 5 but on base claim 1 directly or through intervening claims.

For the reasons set forth above, the Examiner is requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. § 112.

### **Second Rejection**

Claims 1-4 and 6-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimichi (JP 11048856). This rejection is traversed. A translation of this document is enclosed.

Initially, it is noted that on page 5, line 6, the Office Action notes “see cited prior art Naganawa.” As this art has not been included in the heading of the rejection, no comments are necessary. See *In re Hoch*, 166 USPQ 406, 407, CCPA 1970 [cited in the M.P.E.P], wherein the Court stated as follows:

Where a reference is relied on to support a rejection, whether or not in a “minor capacity,” there would appear to be no excuse for not positively including the reference in the statement of rejection.

Also, in the rejection, the Examiner relies on *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Initially, it is not clear what the Examiner considers a duplication in the claim. Also, in the case cited, the case stated that that was no synergism was present. But synergism has been laid to rest in, for example, the case of *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338 (CCPA 1984), wherein the Court stated as follows:

... Regarding synergism, this court has sought to make it clear that an absence of “synergism” or “synergism effect” has no place in evaluating other evidence of non-obviousness .... (Emphasis added.)

Also, in base claim 1, there is a feature regarding the first temporal fastening member that it is “a plurality of engaged parts formed along the protruding direction of said positioning projection.” This is not found in the reference, either specifically or inherently. See, for example, Figure 5, which apparently the Examiner is relying on.

Also, in evaluating a conclusion of obviousness, the results achieved must be considered. Apparently, this has not been done in the rejection. For example, the reference cited was set forth as conventional art in the specification. See page 2, paragraph [0004] of the specification. A problem with this conventional art was set forth in paragraph [0005] of the specification, and the present claimed invention enables the lamp unit to be positioned in a satisfactory manner. This is a result that must be taken into consideration in arriving at any conclusion of obviousness. See *The Gillette Co. v. S.C. Johnson & Son, Inc.*, 16 USPQ2d 1923, 1928 (Fed. Cir. 1990), wherein the Court stated as follows:

An analysis of obviousness of a claimed combination must include consideration of the results achieved by that combination. As we explained in *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) [cited in the MPEP] ....

The dependent claims are considered patentable at least for the same reasons as base claim 1 or their intervening claims.

**Allowable Subject Matter**

Claim 5 was indicated allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph. This claim has been rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, but remains in its dependent form because it is considered the base claim (Claim 1) is patentable.

**New Claim**

New claim 9 has been added. This claim is a dependent claim and is considered patentable at least for the same reasons set forth above for its base claim.

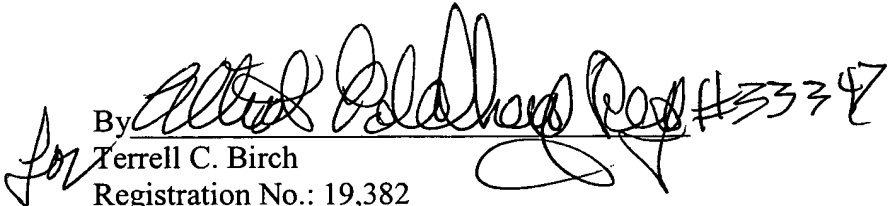
**Conclusion**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Elliot A. Goldberg (Reg. No. 33,347) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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Attachment: Translation of JP-11048856